IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1323 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RUTESHKUMAR KANUBHAI BHATT

Versus

DY COLLECTOR (STAMP DUTY VALUATION)

Appearance:

1. Special Civil Application No. 1323 of 2000

MR JAYANT PATEL for Petitioner No. 1

MS BR GAJJAR AGP for Respondent No. 1

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/10/2001

ORAL JUDGEMENT

The petitioner has challenged the four orders at Annexures A, B, C, D dated 27th December, 1999 passed by the Respondent - Deputy Collector (Stamp Duty

Valuation), City Division, Ahmedabad Office, Ahmedabad, in purported exercise of the powers, whereby, the recovery is sought to be made of (1) Rs. 28,690=00 towards the stamp duty and Rs. 250=00 towards the penalty; (2) Rs. 29,720=00 towards the stamp duty and Rs. 250=00 towards the penalty; (3) Rs. 29,720=00 towards the stamp duty and Rs. 250=00 towards the penalty and (4) Rs. 28,690=00 towards the stamp duty and Rs. 250=00 towards the penalty respectively from the petitioner.

2. This petition is required to be disposed of on the short ground that the petitioner was not heard in the proceedings initiated by the respondent. A reference to the notice dated 7th February, 1998 is made in the impugned orders namely that the petitioner was show cause within 15 days. However, the petitioner has filed an affidavit stating that no notice was served upon him and therefore, the proceedings initiated against him are illegal in as much as in violation of the principles of natural justice. The petitioner has specifically contended in Para - 3.3 of the petition that the impugned orders are passed in breach of the principles of natural justice in as much as no opportunity of hearing whatsoever is given to the petitioner to put forward the case of the petitioner and therefore, the impugned orders are illegal and deserve to be quashed and set aside.

3. This court vide its order dated 12.9.2001 has specifically asked learned AGP to file affidavit of the respondent controverting the facts supported with documents. Even, thereafter also, many adjournments were granted to file affidavit. Suffice it to say, the respondent has not controverted the facts by filing affidavit in the matter. In this view of the matter, it can reasonably infer that the respondent has nothing to say in the matter. Thus, the averments of the petitioner have gone uncontroverted. The petition is required to be allowed only on the short ground that the impugned orders are passed without hearing the petitioner and therefore, the same are required to be quashed and set aside. In this view of the matter, it is not necessary for me to deal with other contentions raised in the petition.

4. In the result, this petition is allowed. The orders at Annexure - A, B, C and D dated 27th December, 1999 passed by the Respondent - Dy. Collector (Stamp Duty Valuation) are quashed and set aside. The matter is remanded to the Respondent with a direction that the respondent shall take a decision in the matter afresh in accordance with law, after hearing the petitioner. Rule

is made absolute with no order as to costs.

(K.R. Vyas, J.)

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